

**REQUIREMENTS FOR CHILD CARE
STAFF RETENTION
PROGRAM
(GRET)**

June 1, 2003 – June 30, 2005

(DATE REVISED FROM JUNE 2, 2003 – June 30, 2005)

REQUIREMENTS FOR CHILD CARE STAFF RETENTION PROGRAM

The intent of this contract award is to assist counties in improving the retention of qualified child care employees who work directly with children who receive state subsidized child care services.

The allocation to each county will be adjusted annually based upon changes in the total amount of subsidized services in each county. Especially in terms of direct stipends to individuals, there should not be an expectation that a particular individual will receive funding from year to year, as such funding will be subject to the county's funding criteria and funding level that are newly established each year.

The following program requirements are provided to assist the designated legal entity in meeting the legislative intent. Each contractor is required, as a condition of its contract with the California Department of Education (CDE), Child Development Division (CDD), to adhere to these requirements and Title 5 regulations pertaining to Child Development Programs, in addition to all other applicable laws and regulations. Any variance from these requirements, the applicable Title 5 regulations, laws and regulations could be considered a noncompliance issue and subject the contractor to possible termination of the contract.

I. General Provisions

1. National Labor Relations Board/Federal Court Order

By signing this contract, the contractor swears under penalty of perjury that no more than one final unappealable finding of contempt of court has been issued by a federal court against the contractor within the last two (2) years because of failure to comply with a federal court order for compliance with an order of the National Labor Relations Board (Public Contract Code Section 10296). This provision does not apply to public entities.

2. Notification of Address Change

Contractors shall notify the CDD in writing of any change in mailing address for communication regarding the contract (administrative address) within ten (10) calendar days of the address change. For non-public agencies, the notification must be accompanied with (1) board minutes verifying the change in address and (2) a copy of the notification to the Internal Revenue Service of the address change.

Contractors shall notify the CDD in writing of any proposed change in operating facility address(s) at least thirty (30) calendar days in advance of the change unless such change is required by an emergency such as fire, flood or earthquake.

3. Open Board Meetings

Any private tax-exempt or private non-tax exempt agency receiving public funds under these regulations must, to the extent of the publicly funded program, comply with the Ralph M. Brown Open Meetings Act ("Brown Act"), Government Code Sections 54950-54961. Board meetings shall be open to the public except for meetings with its designated representatives prior to and during consultations and discussions with representatives of employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees or to consider the appointment, employment, evaluation of performance or dismissal of an employee or to hear complaints or charges brought against an employee unless such employee requests an open meeting. Minutes of these open meetings shall be available to the public.

4. Issuance and Use of Checks

Except for external payroll services, private contractors shall not use any pre-signed, pre-authorized, or pre-stamped checks without the prior written approval of the CDD.

Private contractors shall require two (2) authorized signatures on all checks unless: (1) the contractor has a policy approved by its governing board requiring dual signatures only on checks above a specified dollar amount and (2) the annual audit verifies that appropriate internal controls are maintained.

5. Prohibition Against Loans and Advances

Contractors shall not loan contract funds to individuals, corporations, organizations, public agencies or private agencies. Contractors shall not advance unearned salary to employees. Contractors shall not make advance payments to subcontractors and shall compensate subcontractors after services are rendered or goods are received except for (1) subcontractors providing direct child care and development services and (2) subcontractors with subcontracts exempt from the provisions of subcontractors as outlined in Title 5 regulations.

6. Materials Developed with Contract Funds

If the contractor receives income from materials developed with contract funds, the use of the income shall be restricted to the purposes directly related to the staff retention program. If the materials were developed in part with contract funds, the income from the sale of the materials that shall be used for the program in direct proportion to the share of contract funds used in development of the materials.

Materials developed with contract funds shall contain an acknowledgement of the use of State funds in the development of materials and a disclaimer that the contents do not necessarily reflect the position or policy of the CDE.

7. Contractor's Termination for Convenience

A. General Termination for Convenience

A contractor may terminate the contract for any reason during the contract term. The contractor shall notify the CDD of its intent to terminate the contract at least ninety (90) calendar days prior to the date the contractor intends to terminate the contract.

Within fifteen (15) days from the date the contractor notifies the CDD of its intent to terminate the contract, the contractor shall submit: (1) a current inventory of equipment purchased in whole or in part with contract funds (2) a listing of all outstanding fiscal and programmatic obligations in the current contract period, and (3) forms CD-3021 and CDFS-9529 as described in Section II.2. Reporting Requirements on page 6 of this document.

The State shall only be obligated to compensate the contractor for net reimbursable program costs in accordance with this contract through the date of termination. There shall be no other compensation to the contractor. The State shall offset any monies the contractor owes the State against any monies the State owes under this contract.

B. Changes in Laws or Regulations

The CDD shall notify contractors in writing of changes in laws or regulations prior to the effective date or as soon as possible after enactment. If any laws or regulations are changed substantially during the contract period, the contractor shall have the option to discontinue performance and be relieved of all obligations for further performance.

The contractor has thirty (30) calendar days from receipt of notification of pending changes to notify the CDD in writing of the contractor's intent to terminate if the required changes are unacceptable to the contractor. The contract shall be deemed terminated sixty (60) calendar days after receipt of the notification of the intent to terminate.

8. Applicability of Corporations Code

Except for partnerships and sole proprietorships, private contractors shall be subject to all applicable sections of the Corporations Code including standards of conduct and management of the organization.

9. Conflicts of Interest

For any transaction to which the contractor is a party and the other party is: (a) an officer or employee of the contractor or of an organization having financial interest in the contractor; or (b) a partner or controlling stockholder or an organization having a financial interest in the contractor; or (c) a family member of a person having a financial interest in the contractor, the transaction(s) shall be fair and reasonable and conducted at arm's length.

Based on corporate law (Corporations Code sections 310, 5233-5234, 7233 and 9243 as applicable) the general rules that would be followed to ensure that transactions are conducted "at arm's length" include: (1) prior to consummating the transaction, the governing body should authorize or approve the transaction in good faith and the board should require the interested party, or parties, to make full disclosure to the board both in writing and during the board meeting where the transaction is being discussed and (2) all parties having a financial interest in the transaction should refrain from voting on the transaction and it should be so noted in the board minutes.

If the transaction involves the renting of property, either land or buildings, owned by affiliated organizations, officers or other key personnel of the contractor or their families, the board of directors shall request the interested party to obtain a "fair market rental estimate" from an independent appraiser. If the contractor has no board or is a sole proprietor, the requirement for a "fair market rental estimate" shall also apply. The contractor has the burden of supporting the reasonableness of rental costs. If the property is owned by the contractor, rental costs are not reimbursable and costs may be claimed only as depreciation or use allowance. Any transaction described in this paragraph shall be disclosed by the auditor in the notes to the financial statement in the annual audit.

Rental costs for equipment owned by affiliated organizations, officers or other key personnel of the contractor or their families are allowable only as use or depreciation allowance.

10. Americans with Disabilities Act

By signing this contract, the contractor assures the CDE that it shall comply with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.) as well as all applicable federal and state laws and regulations, guidelines and interpretations issued thereto.

11. Air or Water Pollution Violations (Government Code Section 4477)

By signing this agreement, the contractor swears under penalty of perjury that the contractor is not: (1) in violation of any order or resolution not subject to review promulgated by the state Air Resources Board or an air pollution control district; (2) subject to a cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution. This provision does not apply to public agencies.

12. Recycled Paper Certification (Public Contract Code Section 10308.5/10354)

The contractor agrees to certify in writing to the CDE, under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer material and secondary material as defined in Public Contract Code Sections 12161 and 12200, in materials, goods or supplies offered or products used in the performance of the contract, regardless of whether the product meets the required recycled product percentage as defined in Sections 12161 and 12200. The contractor may certify that the product contains zero recycled content.

13. Child Support Compliance (Public Contract Code Section 7110)

By signing this agreement, the contractor acknowledges that (a) it recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement including, but not limited to, disclosure of information and compliance with earnings assignment orders as provided in Chapter 8 (commencing with Section 5200) of part 5 of Division 9 of the Family Code; and (b) to the best of its knowledge it is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

14. Unlawful Denial of Service (Government Code Section 11135)

- A. No person in the State of Californian shall, on the basis of ethnic group identification, religion, age, sex, color, or disability, be unlawfully denied the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is funded directly by the state or receives any financial assistance from the state.
- B. With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.
- C. As used in this section, "disability" means any of the following with respect to an individual: (1) a physical or mental impairment that substantially limits one or more of the major life activities of the individual, (2) a record of an impairment as described in paragraph (A), or (3) being regarded as having an impairment as described in paragraph (A).

15. Computer Software Copyright Compliance

By signing this agreement, the contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.

16. Union Organizing and Activities

- A. Contractor by signing this agreement hereby acknowledges the applicability to this agreement of Government Code Section 16645 through Section 16649.
1. Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
 2. No state funds received under this agreement will be used to assist, promote or deter union organizing.
 3. Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors if the purpose of such meetings is to assist, promote, or deter union organizing, unless the state property is equally available to the general public for holding meetings.
 4. If the contractor incurs costs or makes expenditures to assist, promote or deter union organizing, the contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs. The contractor shall provide these records to the Attorney General upon request.
- B. Contractor hereby certifies that no request for reimbursement or payment under this agreement will seek reimbursement for costs incurred to assist, promote or deter union organizing.

17. Equipment Inventory

Property records must be maintained that include a description of the equipment, serial number or other identification number, the source of the equipment, the acquisition date, the cost of the equipment, the location, use and condition of the equipment and any ultimate disposition date including date of disposal and sale price if applicable. A physical inventory of equipment must be taken at least every two years and reconciled with property records. A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft (any loss, damage or theft must be investigated) and adequate maintenance procedures must be developed to keep the equipment in good condition.

II. Program Requirements

1. Agency Responsibilities

- A. Each LPC should
- seek legal counsel to determine what safeguards need to be established to protect the public interest;
 - address potential conflict of interest issues; and
 - collaborate with all other interested parties in its county in order to conduct *comprehensive* child care staff recruitment and retention planning.
- B. Each county may develop a plan that identifies the uses of funds from a variety of sources (the funds provided by this contract, as well as funds from both local and State Children and Families Commissions and other funds) to support the retention and recruitment of qualified child care employees throughout that county's early care and education programs (including both subsidized and non-subsidized services).

The LPCs may submit either type of plan: a comprehensive county plan that includes a variety of funding sources and initiatives, as long as the plan clearly and separately identifies the required information about the specific funds provided in this contract; or a county plan that is limited to the funds provided in this contract.

- C. Each LPC must be able to demonstrate that it has systems in place for assuring both fiscal and program accountability for these funds. This includes a fiscal system that conforms to accounting standards for state contracts, and a program documentation system that is able to demonstrate impact of these funds over time and report the measurable outcomes identified in the plan. If funding awards are made for a second year, LPCs will be asked to provide data regarding the effectiveness of their retention efforts.

2. Reporting Requirements

Private agencies (including proprietary entities) that receive \$300,000 or more in total federal funds are required to have an Organization Wide Audit (OWA) performed in accordance with OMB Circular A-133 and the "Audit Guide for Audits of Child Development and Nutrition Programs" prepared by CDE's Audits and Investigations Division (AID). Governmental and other public agencies (excluding school districts, county office of education and community college districts) must comply with the requirements of OMB Circular A-128 and the CDE's "Audit Guide." All other agencies (excluding school districts, county offices or education and community colleges) must submit a contractor audit performed in accordance with the CDE's "Audit Guide."

Each LPC must annually submit a CD-3021 Child Care Retention Program Report, which describes the distribution and uses of the funds in the prior calendar year and the number of individuals or entities who received a stipend or benefit. This report shall be submitted as follows:

Funds Expended between:	CD-3021 Report Due no later than:
June 2 and December 31, 2003	February 10, 2004
January 1 and December 31, 2004	February 10, 2005
January 1 and June 30, 2005	July 20, 2005

Reports shall be mailed to:

Child Development Division
Attn: LPC Team
1430 N Street, Suite 6308
Sacramento, CA 95814-5901

The Expenditure and Revenue Report Form (CDFS-9529) is to be submitted once during the contract period and is due July 20, 2005. Please complete and submit this form directly to your assigned fiscal analyst at:

California Department of Education
Child Development Fiscal Services
P.O. Box 1317
Sacramento, CA 95812-1317

3. Use of Funds

- A. This funding is to supplement, not supplant existing efforts and investments to retain qualified child care staff at the local level.
- B. The contract funds must be allocated to retain qualified child care employees, who work directly with children who receive subsidized care, in State subsidized, center-based programs.
- C. One percent of the total funding allocation may be used for planning purposes. This includes any costs related to developing the plan.
- D. Contractors may claim no more than 15 percent of actual costs incurred, including the one (1) percent expended on planning, for administration.
- E. Contracts will be issued to the legal entity that currently holds the LPC contract with CDE/CDD.
- F. Collaboration is encouraged.
- G. Memoranda of Understanding, sub-contracts, consortia agreements among multiple counties, and other formal and informal types of collaboration are allowed. In particular, counties that have received small allocations may wish to develop a multi-county regional plan that will allow them to maximize the impact and/or benefits of their allocations.
- H. Each plan must describe the current data about needs and resources available relative to this initiative in their county, including but not limited to data about staff turnover and retention rates, and then must explain how awarded funds will be allocated in accordance with those data.
- I. Each plan must identify and prioritize the types or categories of child care employees who will qualify for participation in this child care staff retention initiative.
- J. Each plan must describe measurable outcomes and how they will be used to assess and document the effectiveness of this funding award in retaining qualified child care employees.
- K. Staff retention activities funded by these dollars should be selected in such a way that they are not dependent upon ongoing funding.

4. Reimbursement Costs

Reimbursable costs must be incurred during the contract period. Contractors shall not use current year contract funds to pay prior year obligations.

Contracts and subcontracts shall be reimbursed for travel and per diem expenses at rates not exceeding those amounts paid to the CDE's represented employees computed in accordance with State Department of Personnel Administration (DPA) regulation, Title 2.

Nonreimbursable costs will be determined in accordance with the Title 5 Regulations § 18035 "Nonreimbursable Costs."

If you have questions regarding these requirements, please contact Lupe Romo-Zendejas, Analyst, at (916) 323-6026 or Linda Parfitt, Consultant, at (916) 322-1048.